

OPEN MEETING ITEM



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COMMISSIONERS
MIKE GLEASON - Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

ORIGINAL



ARIZONA CORPORATION COMMISSION

DATE: APRIL 14, 2008
DOCKET NO: T-04229A-07-0642

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Belinda Martin. The recommendation has been filed in the form of an Order on:

LIGHTYEAR NETWORK SOLUTIONS, LLC
(PARTIAL CANCELLATION OF CC&N)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

APRIL 23, 2008

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

MAY 6, 2008 and MAY 7, 2008

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

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AZ CORP COMMISSION
DOCKET CONTROL

BRIAN C. McNEIL
EXECUTIVE DIRECTOR

Arizona Corporation Commission
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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 MIKE GLEASON - Chairman
4 WILLIAM A. MUNDELL
5 JEFF HATCH-MILLER
6 KRISTIN K. MAYES
7 GARY PIERCE

8 IN THE MATTER OF THE APPLICATION OF
9 LIGHTYEAR NETWORK SOLUTIONS, LLC
FOR THE PARTIAL CANCELLATION OF THE
CERTIFICATE OF CONVENIENCE AND
NECESSITY.

DOCKET NO. T-04229A-07-0642

DECISION NO. _____

ORDER

10 Open Meeting
11 May 6 and 7, 2008
12 Phoenix, Arizona

13 **BY THE COMMISSION:**

14 Having considered the entire record herein and being fully advised in the premises, the
15 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

16 FINDINGS OF FACT

17 1. On December 3, 2004, the Commission granted to Lightyear Network Solutions, LLC
18 ("Lightyear" or "Company") a Certificate of Convenience and Necessity ("Certificate") to provide
19 competitive resold and facilities-based local exchange and interexchange telecommunications
20 services in the State of Arizona pursuant to Decision No. 67435. As a condition to the Certificate, the
21 Commission required that the Company file a performance bond in the amount of \$235,000.

22 2. On December 5, 2006, pursuant to an application from the Company, the Commission
23 cancelled the Company's authority to provide facilities-based long distance service and reduced the
24 required performance bond amount from \$235,000 to \$135,000, or in the alternative allowed the
25 Company to file an irrevocable sight draft letter of credit ("ISDLOC") in the same amount. (Decision
26 No. 69171.)

27 3. On November 9, 2007, Lightyear filed an application with the Commission requesting
28 the additional cancellation of its authority to provide competitive resold and facilities-based local

1 exchange telecommunications services in Arizona ("Application"). It did not request a cancellation of
2 its resold long distance authority.

3 4. On January 27, 2008, the Commission's Utilities Division Staff ("Staff") filed its Staff
4 Report recommending partial cancellation of the Company's Certificate.

5 5. However, Staff noted that, although Lightyear had been required to file a bond or an
6 ISDLOC of \$135,000, on October 27, 2007, it only filed an ISDLOC in the amount of \$10,000.
7 Therefore, the Company was technically in violation of Decision No. 69171. Staff believes that the
8 Company filed the lower amount ISDLOC because the Company intended to file the instant
9 Application shortly thereafter.

10 6. On January 31, 2008, the Company filed a Supplement to its Application requesting a
11 an amendment to Decision No. 69171 reducing its performance bond from \$135,000 to \$10,00 to
12 reflect the cancellation of its competitive resold and facilities-based local exchange
13 telecommunications services in Arizona.

14 7. In its Staff Report, Staff concluded that Lightyear has never served any local exchange
15 customers in Arizona and has not collected any advanced payments, deposits and/or prepayments. As
16 such, Staff believes that partial cancellation will have no negative economic effect.

17 8. The Commission's Consumer Services Section of the Commission's Utilities Division
18 reported that there were no customer complaints, inquiries or opinions against the Company from
19 January 1, 2004 to date.

20 9. The Corporations Division reported that the Company is in good standing.

21 10. Staff recommends that the Commission grant the Company's Application and that
22 Lightyear's Certificate to provide resold long distance service in Arizona remain in effect.¹

23 11. Given the foregoing, Staff's recommendations are reasonable and will be adopted.

24 12. There is no indication in either the Application or the Staff Report that the Company
25 filed proof that it published legal notice of its Application to discontinue certain telecommunications

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27 ¹ The Staff Report states, "Staff further recommends that Lightyear's CC&N to provide facilities-based long distance
28 services in the State of Arizona remain in effect." (*Staff Report, page 2*) The Company's authority to provide facilities-
based long distance services was cancelled in Decision No. 69171, so the Company no longer has facilities-based long
distance authority.

1 services in Arizona, as required by Arizona Administrative Code ("A.A.C.") R14-2-1107(B).

2 13. Also, there is no indication that the Company prepared a list of alternate utilities
3 providing the same or similar service within the affected geographic area or informed any customers
4 that it planned to discontinue telecommunications services, as required by A.A.C. R14-2-1107(A)(2)
5 and (4).

6 14. The Company did not collect advances, deposits, or prepayments from any customers
7 in Arizona, therefore there were no advances, deposits, or prepayments that needed to be refunded to
8 customers as required under A.A.C. R14-2-1107(A)(3).

9 15. Since the Company did not provide competitive resold and facilities-based local
10 exchange telecommunications services to Arizona customers, the requirements of A.A.C. R-14-2-
11 1107(A) and (B) are hereby waived.

12 16. The Company additionally requested that the Commission amend Decision No. 69171
13 to reduce the performance bond or ISDLOC from \$135,000 to \$10,000 to reflect the cancellation of
14 the Company's authority to provide competitive resold and facilities-based local exchange
15 telecommunications services in Arizona.

16 17. As a result of this Application, the request to modify Decision No. 69171 is moot, as
17 cancelling the Company's local exchange authority will leave it with only resold long distance
18 telecommunications services, which requires a performance bond or an ISDLOC in the amount of
19 \$10,000.

20 CONCLUSIONS OF LAW

21 1. The Company is a public service corporation within the meaning of Article XV of the
22 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

23 2. The Commission has jurisdiction over the Company and the subject matter of the
24 application.

25 3. The partial cancellation of the Company's Certificate is in the public interest.

26 4. Pursuant to A.R.S. § 40-282, the Commission may issue decisions regarding
27 Certificates of Convenience and Necessity for certain telecommunication services without a hearing.

28 5. Staff's recommendations are reasonable and should be adopted.

ORDER

IT IS THEREFORE ORDERED that the authority to provide competitive resold and facilities-based local exchange telecommunications services in Arizona in the Certificate of Convenience and Necessity granted to Lightyear Networks Solutions, LLC in Decision No. 67435 (December 3, 2004) shall be, and hereby is, cancelled.

IT IS FURTHER ORDERED that Lightyear Network Solutions, LLC's authority to provide resold long distance service pursuant to the Certificate of Convenience and Necessity granted to Lightyear Networks Solutions, LLC in Decision No. 67435 (December 3, 2004) shall remain in effect.

IT IS FURTHER ORDERED that the \$135,000 performance bond required by Decision No. 69171 shall be, and hereby is, cancelled.

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1 IT IS FURTHER ORDERED that Lightyear Network Solutions, LLC shall maintain its
2 irrevocable sight draft letter of credit in the amount of \$10,000, until further order of the
3 Commission.

4 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.
6
7

8 CHAIRMAN _____ COMMISSIONER _____
9

10 COMMISSIONER _____ COMMISSIONER _____ COMMISSIONER _____
11

12 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
13 Director of the Arizona Corporation Commission, have
14 hereunto set my hand and caused the official seal of the
Commission to be affixed at the Capitol, in the City of Phoenix,
this ____ day of _____, 2008.

15
16
17 BRIAN C. McNEIL _____
18 EXECUTIVE DIRECTOR

19 DISSENT _____
20

21
22 DISSENT _____
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1 SERVICE LIST FOR: LIGHTYEAR NETWORK SOLUTIONS, LLC

2 DOCKET NO.: T-04229A-07-0642

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